

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CARLA POWELL,

Plaintiff,

v.

WHITE MOUNTAINS RE SERVICES, LLC,
FOLKSAMERICA REINSURANCE
COMPANY, and FOLKSAMERICA
HOLDING COMPANY, INC.,

Defendant.

:
: CIVIL ACTION
:

: NO. 1:08-cv-07023-HB
:

: JURY TRIAL DEMANDED
:

: ECF CASE
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:
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COMPLAINT

Plaintiff Carla Powell ("Plaintiff") brings this lawsuit against the above-captioned Defendants White Mountains Re Services, LLC, Folksamerica Reinsurance Company, and Folksamerica Holding Company, Inc ("Defendants"), seeking all available relief under the Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C. §§ 201, *et seq.* and New York State Labor Law ("NYSL"), § 190, *et seq.* The following allegations are based on personal knowledge as to Plaintiff's own conduct and are made on information and belief as to the acts of others.

JURISDICTION AND VENUE

1. This Court has jurisdiction over Plaintiff's FLSA claim pursuant to 29 U.S.C. §216(b) and 28 U.S.C. § 1331 and § 1332.
2. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.
3. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

PARTIES

4. Plaintiff is an individual currently residing in Trenton, New Jersey.

5. Defendant Folksamerica Reinsurance Company is headquartered in New York City, New York and is a subsidiary of White Mountains Re Group, Ltd., which is a wholly owned subsidiary of White Mountains Insurance Group, Ltd. Defendant Folksamerica Reinsurance Company describes itself as “a lead multi-line broker market reinsurer” with branch offices in Greenwich, Miami and Toronto through which “the company services the U.S., Latin American, Caribbean and Canadian markets.”

6. Defendant Folksamerica Holding Company, Inc. is headquartered in New York City, New York and is the parent company of Defendant Folksamerica Reinsurance Company. Defendant Folksamerica Holding Company, Inc. is a multi-line broker market reinsurer with \$1 billion in capital.

7. White Mountains Re Services, LLC is headquartered in New York City, New York and provides certain shared services such as accounting and claims management support functions to Defendant Folksamerica Reinsurance Company.

FACTS

8. Defendants engage in the reinsurance industry and employ hundreds of individuals, all of whom are engaged in interstate commerce or in the production of goods for interstate commerce or engaged in handling, receiving, selling, or otherwise working on goods or materials that have been moved in or produced for interstate commerce.

9. Defendants’ annual gross volume of sales made or business done consistently exceeds \$500,000 (exclusive of excise taxes at the retail level which are separately stated).

10. Defendants are employers covered by the record-keeping, minimum wage, wage payment, and overtime mandates of the FLSA and/or NYSSL.

11. Plaintiff was jointly by Defendants and worked from the headquarters of Defendant Folksamerica Holding Company, Inc. in New York City from July 2004 until in or about May 2008 as a “Compliance Assistant.”

12. Although Plaintiff was paid an annual salary she spent almost all of her working hours performing non-executive, non-administrative, and non-professional duties for Defendants. Her general clerical and administrative duties included, *inter alia*, mailing forms to different offices and making photocopies.

13. Plaintiff often worked in excess of 40 hours per workweek. On such occasions, Defendants failed to pay Plaintiff any compensation for hours worked over 40 in a workweek.

14. In failing to compensate Plaintiff for all hours worked and failing to pay Plaintiff the legally mandated overtime premium for hours worked over 40 in a workweek, Defendants acted willfully and with reckless disregard of clearly applicable FLSA and NYSSL provisions.

COUNT I

(Alleging Violations of the FLSA)

15. All previous paragraphs are incorporated as though fully set forth herein.

16. The FLSA requires that covered employees be compensated for every hour worked in a workweek. *See* 29 U.S.C. § 206(b).

17. The FLSA requires that covered employees receive overtime compensation “not less than one and one-half times” their regular rate of pay for all hours worked over 40 in a workweek. *See* 29 U.S.C. § 207(a)(1).

18. During all relevant times, Plaintiff was a covered employee entitled to the above-described FLSA protections.

19. Defendants violated the FLSA by failing to compensate Plaintiff for all hours worked and failing to pay Plaintiff the legally mandated overtime premium.

20. In violating the FLSA, Defendants acted willfully and with reckless disregard of clearly applicable FLSA provisions.

COUNT II

(Alleging Violations of the NYSLL)

21. All previous paragraphs are incorporated as though fully set forth herein.

22. At all times relevant, Plaintiff was an “employee” within the meaning of NYSLL § 190(2).

23. At all times relevant, Defendants were the “employer” of Plaintiff within the meaning of NYSLL § 190(3).

24. At all times relevant, Plaintiff was a “non-exempt” employee within the meaning of NYSLL, entitled to overtime premium pay for all hours worked over 40 in a workweek.

25. Defendants violated the NYSLL by failing to compensate Plaintiff for all hours worked and failing to pay Plaintiff the legally mandated overtime premium of one and one-half times her regular rate of pay for all hours worked over 40 in a workweek.

26. In violating the NYSLL, Defendants acted willfully and with reckless disregard of clearly applicable NYSLL provisions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

A. Compensatory and back pay damages to the fullest extent permitted under federal and state law;

B. Liquidated damages and monetary penalties to the fullest extent permitted under federal and state law;

C. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under federal and state law; and

D. Such other and further relief as this Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial as to all claims so triable.

Date: August 4, 2008

A handwritten signature in black ink, appearing to read "Peter Winebrake", written over a horizontal line.

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